through ticket to a point on the line of the carrier against which the action is brought. If there is a traffic agreement between two connecting carriers, whereby the net profits of all joint business are to be divided in a fixed proportion, without regard to the amount actually earned on the line of either, this is said to create a partnership, as between the carriers and third persons, so that a passenger holding a through ticket may sue either carrier for any injury he receives on either part of the line.[4]

This was the situation in a late case in the Circuit Court of Appeals for the second circuit. Two railroads were operated as one system, the profits of the joint business being divided according to mileage. It was held that a partnership as to joint traffic had been created, and the representative of a passenger who began his journey and was killed on the road of one of the companies, but who held a ticket to a point on the line of the other, was allowed to maintain an action against the second company. *Lehigh Valley R. R. Co.* v. *Dupont*, 30 N. Y. L. J. 1925 (C. C. A., Second Circ.). It is evident that, on the principles stated above, the defendant would have been liable if the two carriers had been natural persons. As it was, there seems, at first sight, to be much force in the objection that the companies had no power to enter into a partnership, so that no action based on the existence of such a partnership could be maintained. The law generally looks with great disfavor on anything in the nature of a partnership between corporations.[5] Accordingly, a contract between two railroad companies to the effect that the net profits of their whole business, both local and joint, shall be divided in a fixed proportion, is held *ultra vires*.[6] But if, as in the present case, the division of net profits is confined to the joint business, each company taking all the receipts and paying all the expenses of its local business, the contract is not objectionable.[7] This arrangement certainly seems to be as much a partnership as the other: in upholding it, an exception is made to the general rule. But it is not an exception without reason: it is so clearly to the public advantage that connecting railroads be operated as one system that it is not difficult to imply a power to form partnerships for this purpose from the general words of the charter.

EFFECT OF THE REGISTRY SYSTEM ON THE DOCTRINE OF ESTOPPEL BY DEED. — In the United States it has long been settled law that where a conveyance is made with covenants of warranty by one who later gets in the title, the after-acquired title inures by estoppel to the benefit of the grantee.[1] If this estoppel merely creates an equity against the grantor, subsequent purchasers for value without notice should be protected; but if it actually passes the title to the original grantee, at common law later purchasers would be without remedy. Under the registry system, however, a different result may well be reached. Statutes requiring a record of conveyances usually provide that instruments of title shall be of no effect against subsequent grantees and incumbrancers if not recorded. In interpreting these statutes the question arises as to how far the record is effective against the later pur-

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[4] Champion *v.* Bostwick, 18 Wend. (N. Y.) 175.
[5] Mallory *v.* Hanaur Oil Works, 86 Tenn. 598.
[6] Burke *v.* Concord R. R. Corp., 61 N. H. 160.
[7] Swift *v.* Pacific Mail S. S. Co., 106 N. Y. 206.

[1] Somes *v.* Skinner, 3 Pick. (Mass.) 52.

chaser. If he is bound by the record of a deed which lies outside the chain of title, estoppel works against him; otherwise, not. On this point the courts are almost evenly divided.[2] In a recent case, therefore, the Supreme Court of South Dakota was bound by no settled rule of law. A statute, presumably declaratory of the common law, provided that title should pass by estoppel. Because a deed given by the grantor before he acquired title was on the record, the court decided that estoppel passed title to the exclusion of a subsequent grantee, although he had traced his vendor's record title back to a patent from the United States government. *Bernardy* v. *Colonial, etc., Mortgage Co.*, 93 N. W. Rep. 166.

The purpose of the registry acts appears to be to facilitate transfers of property by making it safe to deal with the owners of the record title. Consequently they deprive the grantee under an earlier unregistered conveyance of the common law right which his priority in execution would naturally give him over a subsequent grantee,[3] for the later grantee could have no notice from the record of the previous conveyance. By authority, also, a grantee is not charged with notice of a recorded instrument given by one who nowhere appears on the record as owner.[4] For example, if A sells to B, who fails to record, and transfers to C, who registers his conveyance, this record is not effective against a subsequent purchaser from A. Nor is the record notice to other later grantees than those claiming title from the same grantor.[5] Thus, if A claims under a grant from B, record of a prior conveyance of the same lands by X, an adverse claimant, does not bind A. Moreover, if an instrument is spread upon any but the correct record, it is valueless.[6] These results would seem to indicate that a purchaser is expected simply to use reasonable diligence in looking up his vendor's title. It does not seem reasonable that a purchaser be required to examine the record for conveyances made by his grantor at a time when that same record shows that he had not the land to convey. And since the registry system is due to modern legislation, anything in the common law doctrine of estoppel inconsistent with it should be considered overruled.[7] Therefore it seems unfortunate that a grantee, like the defendant in the principal case, who is so grossly careless as to take a deed from one having neither the legal nor the record title should have preference over a grantee who examines his grantor's record title with all reasonable care.

SUIT BY ONE STATE AGAINST ANOTHER. — Seldom, indeed, has a fundamental question of constitutional interpretation been so strikingly presented as in *The State of South Dakota* v. *The State of North Carolina et al.*, 24 Sup. Ct. Rep. 269. A private individual holding bonds of the state of North Carolina secured by railway stock in the hands of the state government, donated ten of the bonds to the state of South Dakota. The latter state brought suit, and North Carolina in answer denied the jurisdiction of the court. On this issue the case was decided, the jurisdiction of the court being sustained. Four justices dissented.

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[2] Warburton *v.* Mattox, Morris (Ia.) 367; Calder *v.* Chapman, 52 Pa. St. 359.
[3] See Losey *v.* Simpson, 11 N. J. Eq. 246, 249.
[4] Irish *v.* Sharp, 89 Ill. 261.
[5] Leiby *v.* Wolf, 10 Oh. 83; 2 Pom. Eq. Juris., 2d ed., § 658.
[6] Colomer *v.* Morgan & Valette, 13 La. An. 202.
[7] See Way *v.* Arnold, 18 Ga. 181, 193.